

Date: MAR 08 1999

Employer Identification No:  
[REDACTED]

Case Number:  
[REDACTED]

Person to Contact:  
[REDACTED]

Telephone Number:  
[REDACTED]

Refer Reply to:  
[REDACTED]

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Dear Applicant:

We have considered your application for exemption from Federal income tax as an organization described in section 501(c)(3) of the Internal Revenue Code (Code).

FACTS

The information submitted discloses that you were incorporated under the nonprofit laws of [REDACTED]

Section II of your Articles of Incorporation states the purpose for which the corporation is organized as "to preserve and promote Asia culture, to assist facilitate and advocate for the elderly persons who are currently the active members of the corporation, to join and help to cover the funeral expenses for those who are currently the active member of the corporation."

The organization is a membership organization. The application (Form 1023) indicates a current membership of [REDACTED] families. Dues of [REDACTED] are collected from each family when there is a death of an organization member/relative.

The application, Form 1023, and letter dated [REDACTED] indicates that the organization's activities include:

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Code	Initiator EP/EO:TB:REV:	Reviewer EP/EO:TB:REV	Reviewer EP/EO:TB	Reviewer EP/EO	Reviewer LD	Reviewer EP/EO:TB:REV
Surname	[REDACTED]	[REDACTED]				
Date	[REDACTED]	[REDACTED]				

- The collection of \$ [REDACTED] from each family (member) of the organization upon the death of a member/relative. The proceeds are then used to pay for the funeral expenses incurred.

- Preserving and promoting the [REDACTED] by teaching member children the [REDACTED] and language as well as values.

- Providing transportation, translation services and English lessons to the elderly members of the organization on a volunteer basis.

The letter dated [REDACTED] states:

(1) that all the "facilities" are for the services of the Association, and

(2) that the "profit" of the organization belongs to the members and they are the owners and only beneficiaries.

#### ISSUE

Does the organization qualify for exemption from Federal income tax as an organization described in section 501(c)(3) of the Code?

#### LAW

Section 501(c)(3) of the Code describes certain organizations exempt from income tax under section 501(a) and reads in part as follows:

"(3) Corporations, and any community chest, fund, or foundation organized and operated exclusively for religious, charitable, scientific, testing for public safety, literary or educational purposes, or to foster national or international amateur sports competition (but only if no part of its activities involve the provision of athletic facilities or equipment), no part of the net earnings of which inures to the benefit of any private shareholder or individual, no substantial part of the activities of which is carrying on legislation, (except as otherwise provided in subsection (h)), and which does not participate in, or intervene in (including the publishing or distribution of statement), any political campaign on behalf of any candidate for public office."

Section 1.501(c)(3)-1(a)(1) of the Income Tax Regulations (Regs), provides that in order to be exempt as an organization described in Code section 501(c)(3), an organization must be both organized and operated exclusively for one or more of the purposes specified in such sections. If any organization fails to meet either the organizational test or the operational test, it is not exempt.

Regs Section 1.501(c)(3)-1(b)(1)(i) provides that an organization is organized exclusively for one or more exempt purposes only if its Articles of organization (a) limit the purposes of such organization to one or more exempt purposes; and (b) do not expressly empower the organization to engage otherwise than in an insubstantial part of its activities, in activities which in themselves are not in furtherance of one or more exempt purposes.

Section 1.501(c)(3)-1(c)(1) of the Regs provides that an organization will be regarded as "operated exclusively" for one or more exempt purposes only if it engages primarily in activities which accomplish one or more of such exempt purposes specified in section 501(c)(3). An organization will not be so regarded if more than an insubstantial part of its activities is not in furtherance of an exempt purpose.

Section 1.501(c)(3)-1(c)(2) of the Regs provides that an organization is not operated exclusively for one or more exempt purposes if its net earnings inure in whole or part to the benefit of private shareholders or individuals.

Regs Section 1.501(a)-1(c) defines "private shareholders or individuals" as referring to persons having a personal or private interest in the activities of the organization.

Section 1.501(c)(3)-1(d)(1)(ii) of the Regs provides that an organization is not organized or operated exclusively for one or more exempt purposes unless it serves a public rather than a private interest. Thus, to meet the requirement of this subsection, it is necessary for an organization to establish that it is not organized or operated for the benefit of private interests such as designated individuals, the creator or his family, shareholders of the organization, or persons controlled, directly or indirectly, by such private interests.

#### ANALYSIS AND CONCLUSION:

The information presented indicates that all the activities of the organization are directed towards providing financial assistance and services to the members of the organization. The primary activity of the organization is the payment of burial expenses of organization members/relatives.

Section 1.501(c)(3)-1(c)(1) of the Regs requires that an organization operate exclusively for one or more exempt purposes to qualify for tax exemption. Inurement to private shareholders/individuals will cause an organization to fail to qualify under Regs section 1.501(c)(3)-1(c)(2); as will the organization and operation of an organization for private rather than public interests under Regs section 1.501(c)(3)-1(d)(1)(ii). The organization and operation of the organization for the benefit of its members constitutes inurement and private interest.

Therefore, based on the information submitted, we have concluded that your organization is not entitled to exemption from Federal income tax as an organization described in Code section 501(c)(3).

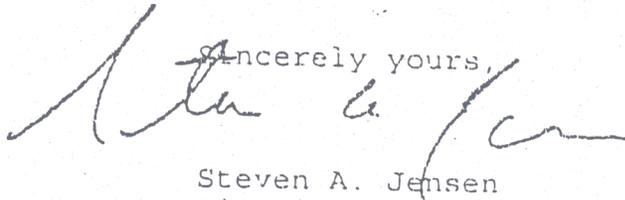
Until such time as you establish your exempt status for Federal income tax purposes, contributions made to you are not deductible under section 170 of the Code.

If you are in agreement with this proposed determination, we request that you sign and return the enclosed Form 6018. Please note the instructions for signing on the reverse side of this form.

If you are not in agreement with this proposed determination, we recommend that you request a hearing with our office of Regional Director of Appeals. Your request for a hearing should include a written appeal giving the facts, law and any other information to support your position, as explained in the enclosed Publication 892. You will then be contacted to arrange a date for a hearing. The hearing may be held at the office of Regional Director of Appeals, or if you request, at a mutually convenient District Office.

If we do not hear from you within 30 days from the date of this letter, and you do not protest this proposed determination in a timely manner, it will be considered by the Internal Revenue Service as a failure to exhaust available administrative remedies and will then become our final determination. Section 7428(b)(2) of the Code provides in part that, "A declaratory judgment or decree under this section shall not be issued in any proceeding unless the Tax Court, the Claims Court, or the District Court of the United States for the District of Columbia determines that the organization involved has exhausted administrative remedies available to it within the Internal Revenue Service."

Sincerely yours,



Steven A. Jensen  
District Director

Enclosure(s):  
Publication 892  
Form 6018